

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 09-10697-RGS

FRANK LEBEAU, JR.
Petitioner

v.

GARY RODEN
Respondent

ORDER ON MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

August 9, 2011

STEARNS, D.J.

As I am in total agreement with Magistrate Judge Dein's meticulous Report, I will adopt her Recommendation and order that the petition be DISMISSED with prejudice.¹ The Clerk will enter the dismissal and close the case.

SO ORDERED.

¹ As Magistrate Judge Dein notes, several of the grounds advanced by petitioner, for example, the alleged violation of Mass. Gen. Laws ch. 276, § 33A, and the purported violation of petitioner's Fourth Amendment rights, are not remediable by way of habeas corpus. As to the more substantial issues regarding the voluntariness of petitioner's confession and the "knowing and intelligent" nature of his waiver of *Miranda* rights, there is nothing about the Supreme Judicial Court's very thorough decision that comes even remotely close to an unreasonable application of clearly established Supreme Court precedent or an unreasonable determination of the facts. *See* 28 U.S.C. § 2254(d).

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE